

C.A. No. 04-3909

UNITED STATES OF AMERICA

v.

EMMETT LOCKHART,

Appellant

(M.D. Pa. Crim. No. 01-cr-00059)  
(criminal treated as civil)

Present: SLOVITER, NYGAARD AND FUENTES, CIRCUIT JUDGES

Submitted is appellant's request for a certificate of appealability under 28  
U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

MMW/SR/clw

ORDER

The foregoing request for a certificate of appealability is denied because Blakely v. Washington, 124 S.Ct. 2531 (2004), and United States v. Booker, 125 S.Ct. 738 (2005) have not been made retroactive by the Supreme Court to cases on collateral review. See McReynolds v. United States, \_\_\_ F.3d \_\_\_, (7th Cir. February 2, 2005) (finding Booker not retroactive); United States v. Jenkins, 333 F.3d 151 (3d Cir. 2003) (finding Apprendi not retroactive).

A True Copy:

By the Court,



Marcia M. Waldron,  
Clerk

/s/ Richard L. Nygaard  
Circuit Judge

Dated: March 1, 2005  
CLW/cc: Mr. Emmett Lockhart  
Theodore B. Smith III, Esq.